IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 24270 of 2004

Between:

New Abhyudaya Educational Society (Regd No. 635/1994) Cumbum Village and Mandal,Prakasam District,

Rep. by Secrtary and Correspondent Guntur Satya Ranga Rao S/o Subba Rangaiah R/o Near Laxminarayana Temple Gandhi Bazar, Cumbum, Prakasam District.

..... PETITIONER

AND

The Commissioner and Director of School Education Saifabad, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate writ or direction declaring the order of the 1st respondent passed in Rc. No. 3181/N2-2/2001 dt. 31-12-2001 in rejecting the case of the petitioner society for issuance of no objection certificate for establishment of College of Education at Cumbum Village and mandal, Prakasam district as illegal arbitrary and contrary and violation of principles of natural justice and consequently direct the respondent to issue no objection certificate forthwith and pass such other or further orders as the Hon'ble Court feels deem fit and proper in the facts and circumstances of the case

Counsel for the Petitioner: MR.K.BHEEMA RAO, Advocate

Counsel for the Respondent : GP FOR EDUCATION

The Court made the following :

ORDER:

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This writ petition is filed aggrieved by the order passed by the respondent in Rc. No. 3181/N2-2/2001 dt. 31-12-2001 in rejecting the case of the petitioner society for issuance of no objection certificate for establishment of College of Education at Cumbum Village and mandal, Prakasam district, as illegal, arbitrary, contrary and violation of principles of natural justice, and consequently direct the respondent to issue no objection certificate forthwith.

2. According to the petitioner, in response to the notice issued by the Government, dated 28.4.2001, it has submitted its application seeking no objection certificate fulfilling the requirements as contemplated under the Rules. However, according to the petitioner, the Government passed rejection order dated 31.12.2001 rejecting the application of the petitioner on the ground that the petitioner failed to fulfill the primary conditions with regard to the land as stipulated in G.O.Ms.No.398, dated 4.12.1997, and the Notification dated 28.4.2001 of the Commissioner of Director of School Education, Andhra Pradesh. In view of the non-compliance of the above, the State Level Committee rejected the application of the petitioner. According to the petitioner, after the said impugned order, representations were made on 6.2.2002, 12.6.2002, 10.12.2002, 8.5.2003 and on 22.1.2004. As no response was given by the respondent, the petitioner filed the present writ petition.

3. At the time of hearing, it is contended by the learned counsel for the petitioner that as per the judgment of this court in **St.Mary's Educational Society, Giddalur, Prakasam District v. Government of A.P.**, the respondents authorities have to issue an opportunity for compliance of the requirements if any of the deficiencies are found. As no such notice was issued by the respondent before passing the impugned order, the rejection o the application of the petitioner is illegal, without jurisdiction and therefore, sought to set aside the same.

4. The learned Government Pleader, on the other hand, opposed the contention of the petitioner. According to the learned counsel, as per the notification issued by the Government, the applicant must have two hectors of land in its name, and the

petitioner did not comply the said requirement. Therefore, the application of the petitioner was rejected, and the deposit of Rs.5,00,000/- made towards the corpus fund was returned to the petitioner. Therefore, it is not possible at this stage to reconsider the claim of the petitioner. It is also stated that about five colleges have already been granted permission in Markapur revenue division.

5. Heard the learned counsel and considered the material on record.

6. Prima facie, the petitioner had come up before this Court after a lapse of more than three years seeking redressal of its grievance. In view of the laches, apart from the fact that the respondents-authorities have already granted permission to five other institutions, it would not be proper to direct the respondents to reopen the issue at this juncture.

7. Therefore, the writ petition is dismissed as devoid of any merit. No costs.

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S. Ananda Reddy, J.

Dt. 06.06.2005

Kvh/vs

To

1. The Commissioner and Director of School Education Saifabad, Hyderabad
2. The Government Pleader for Education, High Court of A.P.

Hyderabad.

3) Two CD copies